



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07189/2017

THE IMMIGRATION ACTS

Heard at Glasgow
on 17 July 2018

Decision & Reasons Promulgated
on 26 July 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ARGOSH ALI REZA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms N Loughran, of Loughran & Co, Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This decision is to be read with:
 - (i) The respondent's decision dated 14 July 2017, refusing the appellant's claim.
 - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
 - (iii) The decision of Designated FtT Judge Murray, promulgated on 20 November 2017.

- (iv) The appellant's grounds of appeal to the UT, stated in the application for permission to appeal filed with the FtT and dated 1 December 2017, and adopted in the application filed with the UT on 6 February 2018.
 - (v) The grant of permission by UT Judge Plimmer, dated 28 February 2018.
2. The grounds firstly challenge paragraph 43 of the decision, where the judge says that she is not clear whether the appellant's identity has been accepted "... as he has used a number of different names and dates of birth but it is true that his nationality has been accepted. He is Kurdish and he is Iranian." This is alleged to be an error because the respondent's decision at paragraph 28 says, "... your identity and nationality have been accepted". The grounds say the judge's failure to record the respondent's position is "... particularly significant when she proceeded to find his account not credible".
 3. I see no substance in this point. The judge accepted that the appellant is Kurdish and Iranian, as did the respondent. The respondent's finding went no further than that reached by the judge. It imported no greater an acceptance of anything else the appellant claimed. It did not signify that use of multiple identities was not a matter which might count to any extent against him. That was for the judge to weigh up.
 4. The second challenge in the grounds is that the judge failed to give reasons for her adverse findings at paragraphs 44 and 45.
 5. Decisions are not to be read by isolating conclusions from their overall context. The grounds do not fairly represent the reasons to be found in the decision, as Mr Govan pointed out. These include:
 - two different accounts of the countries through which the appellant travelled;
 - failure to disclose that that he been in Finland, where his presence was given away by a fingerprint history;
 - use of several different identities and dates of birth;
 - unpersuasive explanation of being told to use these false identities by a smuggler;
 - failure to cooperate in return to Bulgaria;
 - failure to answer more than basic questions about the party for which he was allegedly active;
 - an incredible account of being watched by his father when leafletting, who in turn was watched by others;
 - an unclear account of his father's claimed political activities; and
 - claimed inability to read and write, inconsistent with having a Facebook page.

6. Ms Loughran submitted in response that the use of a series of look-outs is not unlikely. That is a reasonable enough counter-argument on one matter of fact, but not one to be found in the grounds, and it remains clear that the judge gave several reasons for finding the appellant not generally credible.
7. The third point in the grounds relates to the appellant's postings on Facebook, a case of risk arising from *sur place* activities. It was argued that the judge overlooked (a) that it is irrelevant whether the activities were undertaken in bad faith, and (b) the background evidence, highlighted in a key passages index before the FtT and in the grounds of appeal to the UT.
8. Ms Loughran said it could fairly be deduced from the passages quoted about internet surveillance that the Iranian authorities might detect the appellant's Facebook activities. Although there was no evidence specifically about surveillance of Facebook, it is part of the internet. She accepted that the appellant's Facebook account would be within his control, that he could delete postings, and that there are many millions of postings on Facebook every day, as matters within public (even judicial) knowledge.
9. As to the outcome, Ms Loughran's position was that grounds one and two would require a fresh hearing in the FtT, while ground three showed an error which could be corrected by the UT. If set aside on that issue, she argued, a decision should be substituted, allowing the appeal.
10. The evidence of the Facebook account is in the appellant's FtT Inventory III, running to 28 pages. These are mainly in English, but also in other untranslated languages, including German. It is not obvious that it is an account in name of the appellant, but that may be taken as he claims. The pages include material, mainly photographic, which clearly enough relates to oppression of Kurds by the Iranian authorities. There are references to the "PDKI" and to "PDKI Scotland", some of whose posts appear to be shared on the pages.
11. The first background source cited is the US State Dept Report 2015:

The government restricted and disrupted access to the internet, monitored private online communications, and censored online content...
12. The second reference is not clearly given, but is to the effect of information that:

... monitoring is conducted through wiretapping of phones and internet connections ...
13. I accept that information as accurate. How far might it have taken the appellant?
14. The internet is vast, and within it Facebook is huge. However, I also note that the internet is easily searched, even without tools available to intelligence agencies.
15. The appellant's Facebook activities consist of lifting onto his page political materials likely to be offensive to the Iranian authorities, who treat Kurdish dissent very harshly.

16. The appellant produces evidence that the Iranian authorities monitor the internet, but not that they are all-knowing about critical postings by every citizen abroad. The appellant has failed to establish that, to date, they have any malice towards him.
17. The appellant's internet activities are not permanent public news or comment items or "blogs" in his name. They are copies onto his Facebook page of items from elsewhere. His page, access to it, and deletion of it in whole or in part, are under his control.
18. The appellant's evidence does not show it to be reasonably likely that his obscure internet activity may bring him to adverse attention of the Iranian authorities. He set up no chain of evidence by which that might come about.
19. The appellant's activities having been found to be in bad faith, there is no reason to think that he would fail to delete potentially damaging material in advance of any risk of being associated with it on return to Iran.
20. The appellant's Facebook activities, taken with the background evidence cited, disclose no real risk on return. Any error by the FtT does not require its decision to be set aside.
21. Alternatively, for the same reasons, I would substitute a decision, again dismissing the appeal.
22. The decision of the First-tier Tribunal shall stand.
23. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

17 July 2018
Upper Tribunal Judge Macleman